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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/964,891

Applicant(s)

HENDRICKS, JOHN S.

Examiner

JAMES SHELEHEDA

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)

Paper No./Mail Date: _____

- 4) ☐ Interview Summary (PTO-413)

Paper No(s)/Mail Date: _____

- 5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 05/22/08 have been fully considered but they are not persuasive.

a. In response to applicant's arguments that Seth-Smith is silent as to teaching that the subscription audio is accessed simultaneously with the video, it is noted that Seth Smith repeated indicates that audio and video are received and output simultaneously (see Fig. 17; column 23, lines 37-52 and column 7, lines 45-68). This is seen in the fact that providing video simultaneously with accompanying audio is a basic premise behind television distribution. Seth Smith merely discloses wherein the audio could additionally consist of an independent pay audio channel (column 7, lines 63-68). Therefore, applicant's arguments are not convincing.

b. In response to applicant's arguments that Seth Smith would require a second tuner to access the video and audio simultaneously, it is noted that all of the audio 'channels' are transmitted within the HBI or VBI of the video signal (column 7, lines 45-68). Thus, applicant's argument that a second tuner would somehow be required are completely incorrect. The mere fact that Seth Smith refers to an audio 'channel' does not indicate a need for any sort of separate tuner, as the audio 'channel' is part of the single video stream. The audio is

separated from the video and separately processed and output (see Fig. 17 and column 7, lines 63-68). As Seth Smith is providing a plurality of audio channels **with** the video signal, including the audio component of the video program itself (column 7, lines 57-68), it is unclear as to how applicant feels that a separate tuner would somehow be required, as this interpretation would render the system incapable of outputting any audio with a television program.

c. In response to applicant's arguments regarding "the audio is accessed remotely from said set top terminal" it is noted this feature is already disclosed by the references of record.

In regards to claims 8-25, Banker discloses wherein the set top terminal is a *separate device* from the television (see Fig. 3 and column 11, lines 18-31) and that the video and audio is output to the television for access by the user. Thus, applicant's arguments are not convincing, as the user is clearly provided access to the audio at the television set which is separate from the set top terminal (see Fig. 3).

In regards to claims 1-7, Goldstein discloses wherein the set top terminal is a *separate device* from the television (see Fig. 14) and that the set top box will modulate and output a television program over an RF connection (onto channel 3; see Fig. 14). Additionally, audio data transmitted within the video signal may be transmitted to the remote control for access by the user (column 30, line 40-53). Thus, applicant's arguments are not convincing, as the user is clearly

provided access to the audio at a device which is separate from the set top terminal (see Fig. 14).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein (5,410,326) (of record) in view of Seth-Smith et al. (Seth-Smith) (4,890,321) (of record) and Graczyk et al. (Graczyk) (5,192,999) (of record).

As to claim 1, while Goldstein discloses a set top terminal for generating an interactive electronic program guide for display on a television for use with a television delivery system (column 33, lines 3-34), the terminal comprising:

means for retrieving information about a subscriber (column 14, lines 51-55);

means for receiving a television signal (column 16, lines 38-45);

means for extracting individual programs from the television signal (column 17, lines 20-22);

means to demultiplex video, graphics and text (136; see Fig. 14; column 16, line 38-column 19, line 12);

wherein audio is accessed remotely from said set top terminal (column 30, line 40-53, Fig. 14);

means for generating an electronic program guide for controlling display of content on a television screen (column 17, lines 16-19), the guide comprising:

a home menu (master menu; column 34, lines 1-9);

a plurality of major menus displayed as menu options on the home menu (column 34, lines 6-19);

a plurality of sub-menus displayed as menu options on the plurality of major menus (column 34, line 67-column 35, line 59); and

a plurality of during programming menus enacted after selection of a program (additional information icons displayed during a program; column 14, lines 3-20);

wherein at least one of the plurality of menus comprises the demultiplexed video, graphics and text (the display comprises overlaid icons onto the video signal; column 14, lines 3-20); and

means for receiving the selection signals from a user input (column 17, lines 43-50), he fails to specifically disclose means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio and means to receive an audio upgrade module.

In an analogous art, Graczyk discloses a system capable of receiving television signals and audio signals (column 2, lines 10-38) including audio circuits which are solely used for receiving audio signals (see Fig. 4) by providing audio circuitry through

an audio expansion (upgrade) module (Fig. 1 and 4; column 10, line 33-column 11, line 44 and column 32, lines 62-66) for the typical benefit of providing a user friendly means to combine multiple media abilities into a single standardized system (column 1, line 37-column 2, line 8).

Additionally, in an analogous art, Seth-Smith discloses a television distribution system (Fig. 1) wherein the received television signal contains video and multiple audio channels (see Figs. 3-4; column 6, lines 43-52 and column 4, lines 22-47) and wherein the user will navigate a menu (column 32, lines 9-26) displaying a plurality of audio choices for accessing the audio (column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18) to allow the user to separately access a particular audio channel (such as accessing one preferred language or dialect for a program; column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18), wherein the audio is independent from the television signal (additional pay per listen audio content; column 7, lines 63-68, column 14, lines 12-15 and column 27, lines 54-64) and accessed simultaneously while the television signal is being displayed (column 23, lines 37-52) for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer (column 14, lines 5-18).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Goldstein's system to include a means to receive an audio upgrade module, as taught by Graczyk, for the typical benefit of providing a user friendly means to combine multiple media abilities into a single standardized system.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Goldstein and Graczyk's system to include means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio, as taught by Seth-Smith, for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer.

As to claim 2, Goldstein, Graczyk and Seth-Smith disclose wherein the plurality of menus of the guide further comprises:

an introductory menu that is displayed upon beginning use of the guide (local menu to perform initialization; see Goldstein at column 33, lines 11-34).

As to claim 3, Goldstein, Graczyk and Seth-Smith disclose wherein the guide is controlled by a set top terminal (television receiver; see Goldstein at column 33, lines 11-33), and wherein the introductory menu automatically appears on the television screen when the set top terminal is turned on (see Goldstein at column 3, lines 11-16); and

the terminal further comprises:

means for generating a cursor highlight overlay to indicate the position of a cursor on at least one menu (see Goldstein at column 9, lines 24-43, column 34, lines 10-28);

means for moving the cursor highlight overlay in response to pressing of cursor movement buttons by a user (see Goldstein at column 9, lines 24-43, column 34, lines 10-28).

As to claim 4, Goldstein, Graczyk and Seth-Smith disclose wherein the introductory menu displays information or messages from a television delivery system operations center that provides programming (see Goldstein at column 33, lines 11-68).

As to claim 5, Goldstein, Graczyk and Seth-Smith disclose wherein the information or messages are directed to a particular subscriber (see Goldstein at column 20, lines 54-63).

As to claim 6, Goldstein, Graczyk and Seth-Smith disclose wherein the information or messages are directed to a group of subscribers (see Goldstein at column 20, lines 54-63).

As to claim 7, Goldstein, Graczyk and Seth-Smith disclose wherein the during program menus comprise hidden menus and program overlay menus (comprising

overlaid icons and hidden embedded information; see Goldstein at column 14, lines 3-20).

4. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker et al. (Banker) (5,477,262) (of record) in view of Seth-Smith and Graczyk.

As to claim 22, while Banker discloses a set top terminal (Fig. 3, 300; column 10, lines 61-63) for generating an interactive electronic program guide for display on a television connected to the set top terminal (Fig. 3; column 3, lines 20-29), the terminal comprising:

means for retrieving information about a subscriber (column 24, lines 19-39);

means for receiving a television signal (column 10, line 61-column 11, line 22);

means for extracting individual programs from the television signal (column 13, lines 49-59);

means to demultiplex video, graphics and text (304; column 11, lines 2-30);

wherein audio is accessed remotely from said set top terminal (see Fig. 3 and column 11, lines 18-31);

means for generating an electronic program guide for controlling display of content on a television screen (column 11, lines 21-31), the guide comprising:

a plurality of interactive menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27), each corresponding to a level of

interactivity and having one or more interactive menu items for selection (Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27);

a main menu having one or more main menu items for selection (top menu; Fig. 7A), which main menu items correspond to the interactive menus (corresponding to the submenus; Fig. 7 and 7A; column 21, lines 34-45), wherein the menus are navigated using a user input (column 21, lines 34-43), and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input (column 21, lines 34-43);

wherein at least one of the plurality of menus comprises the demultiplexed video, graphics and text (menu with video background; column 12, line 48-column 13, line 13);
and

means for receiving the selection signals from the user input (Figs. 3 and 4; column 16, lines 19-42), he fails to specifically disclose means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio and means to receive an audio upgrade module.

In an analogous art, Graczyk discloses a system capable of receiving television signals and audio signals (column 2, lines 10-38) including audio circuits which are solely used for receiving audio signals (see Fig. 4) by providing audio circuitry through an audio expansion (upgrade) module (Fig. 1 and 4; column 10, line 33-column 11, line

44 and column 32, lines 62-66) for the typical benefit of providing a user friendly means to combine multiple media abilities into a single standardized system (column 1, line 37-column 2, line 8).

Additionally, in an analogous art, Seth-Smith discloses a television distribution system (Fig. 1) wherein the received television signal contains video and multiple audio channels (see Figs. 3-4; column 6, lines 43-52 and column 4, lines 22-47) and wherein the user will navigate a menu (column 32, lines 9-26) displaying a plurality of audio choices for accessing the audio (column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18) to allow the user to separately access a particular audio channel (such as accessing one preferred language or dialect for a program; column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18), wherein the audio is independent from the television signal (additional pay per listen audio content; column 7, lines 63-68, column 14, lines 12-15 and column 27, lines 54-64) and accessed simultaneously while the television signal is being displayed (column 23, lines 37-52) for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer (column 14, lines 5-18).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker's system to include a means to receive an audio upgrade module, as taught by Graczyk, for the typical benefit of providing a user friendly means to combine multiple media abilities into a single standardized system.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker and Graczyk's system to include means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio, as taught by Seth-Smith, for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer.

As to claim 23, while Banker discloses a method of generating an interactive electronic program guide for display on a television connected to the set top terminal (Fig. 3; column 3, lines 20-29), the method comprising:

receiving a television signal from an operations center (column 10, line 61-column 11, line 22), the signal having a plurality of television programs (column 9, lines 1-12) and interactive features (column 8, lines 45-67 and column 9, lines 13-25);

extracting the individual programs from the television signal (column 13, lines 49-59);

demultiplexing video, graphics and text (304; column 11, lines 2-30);

wherein audio is accessed remotely from said set top terminal (see Fig. 3 and column 11, lines 18-31);

generating a plurality of menus, including:

generating a plurality of interactive menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27) each corresponding to a level of interactivity (Figs. 8, 10, 18 and 20; column 21, line 44-column 25, line 27);

generating a plurality of program menus having information related to the programs (Figs. 12 and 16A; column 21, line 44-column 25, line 27); and

generating a main menu having one or more main menu items for selection (top menu; Fig. 7A), the main menu items including an interactive menu item for accessing the interactive menus (Fig. 7 and 7A; column 21, lines 34-45) and a program menu item for accessing the program menus (Fig. 7 and 7A; column 21, lines 34-45);

displaying the main menu on the television screen (Fig. 7 and 7A; column 21, lines 34-45);

receiving from a user input device a selection of one of the menu items (column 21, lines 34-43); and

displaying the interactive or program menus associated with the selection (Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27);

wherein at least one of the plurality of menus comprises the demultiplexed video, graphics and text (menu with video background; column 12, line 48-column 13, line 13), he fails to specifically disclose means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a

plurality of audio choices for accessing the audio and means to receive an audio upgrade module.

In an analogous art, Graczyk discloses a system capable of receiving television signals and audio signals (column 2, lines 10-38) including audio circuits which are solely used for receiving audio signals (see Fig. 4) by providing audio circuitry through an audio expansion (upgrade) module (Fig. 1 and 4; column 10, line 33-column 11, line 44 and column 32, lines 62-66) for the typical benefit of providing a user friendly means to combine multiple media abilities into a single standardized system (column 1, line 37-column 2, line 8).

Additionally, in an analogous art, Seth-Smith discloses a television distribution system (Fig. 1) wherein the received television signal contains video and multiple audio channels (see Figs. 3-4; column 6, lines 43-52 and column 4, lines 22-47) and wherein the user will navigate a menu (column 32, lines 9-26) displaying a plurality of audio choices for accessing the audio (column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18) to allow the user to separately access a particular audio channel (such as accessing one preferred language or dialect for a program; column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18), wherein the audio is independent from the television signal (additional pay per listen audio content; column 7, lines 63-68, column 14, lines 12-15 and column 27, lines 54-64) and accessed simultaneously while the television signal is being displayed (column 23, lines 37-52) for the typical benefit of

allowing the viewer to select and listen to program audio in the language/dialect they prefer (column 14, lines 5-18).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker's system to include a means to receive an audio upgrade module, as taught by Graczyk, for the typical benefit of providing a user friendly means to combine multiple media abilities into a single standardized system.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker and Graczyk's system to include means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio, as taught by Seth-Smith, for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer.

5. Claims 8-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker in view of Seth-Smith and Gibson (5,539,871) (of record) and Graczyk.

As to claim 8, Banker discloses a set top terminal (Fig. 3, 300; column 10, lines 61-63) for generating an interactive electronic program guide for display on a television connected to the set top terminal (Fig. 3; column 3, lines 20-29), the terminal comprising:

means for receiving a television signal (column 10, line 61-column 11, line 22);

means for extracting individual programs from the television signal (column 13, lines 49-59);

means to demultiplex video, graphics and text (304; column 11, lines 2-30);

wherein audio is accessed remotely from said set top terminal (see Fig. 3 and column 11, lines 18-31);

means for generating an electronic program guide for controlling display of content on a television screen (column 11, lines 21-31), the guide comprising:

a plurality of menus (interactive menus for such features as sleep mode, messages, pay-per-view, VCR timing and STB control; Figs. 8, 10, 12, 16A, 18 and 20; column 21, line 44-column 25, line 27), and wherein at least one of the plurality of menus comprises the demultiplexed video, graphics and text (menu with video background; column 12, line 48-column 13, line 13);

an overlay menu that is displayed during the one of the programs (Figs. 7 and 7A; column 12, line 62-column 13, line 13 and column 21, lines 34-43), the overlay menu including interactive features (Fig. 7A); and

means for receiving selection signals from a user input (Figs. 3 and 4; column 16, lines 19-42).

While Banker discloses an overlay menu that is displayed in response to a signal received from the user input (column 19, line 59-column 20, line 5), he fails to specifically disclose means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is

being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio and a logo that is displayed on the television screen during one of the programs, which program has one or more interactive features, wherein the logo indicates to a user that the interactive features are available for the program and means to receive an audio upgrade module.

In an analogous art, Graczyk discloses a system capable of receiving television signals and audio signals (column 2, lines 10-38) including audio circuits which are solely used for receiving audio signals (see Fig. 4) by providing audio circuitry through an audio expansion (upgrade) module (Fig. 1 and 4; column 10, line 33-column 11, line 44 and column 32, lines 62-66) for the typical benefit of providing a user friendly means to combine multiple media abilities into a single standardized system (column 1, line 37-column 2, line 8).

Additionally, in an analogous art, Seth-Smith discloses a television distribution system (Fig. 1) wherein the received television signal contains video and multiple audio channels (see Figs. 3-4; column 6, lines 43-52 and column 4, lines 22-47) and wherein the user will navigate a menu (column 32, lines 9-26) displaying a plurality of audio choices for accessing the audio (column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18) to allow the user to separately access a particular audio channel (such as accessing one preferred language or dialect for a program; column 32, lines 9-26, column 7, lines 45-67, column 25, line 66-column 26, line 5 and column 14, lines 5-18), wherein the audio is independent from the television signal (additional pay per listen audio content; column 7, lines 63-68, column

14, lines 12-15 and column 27, lines 54-64) and accessed simultaneously while the television signal is being displayed (column 23, lines 37-52) for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer (column 14, lines 5-18).

Finally, in an analogous art, Gibson discloses a system wherein an interactive menu system for display on a television in conjunction with television programming (column 2, lines 10-27), wherein

a logo that is displayed on a display during a program having one or more interactive features (column 3, line 65-column 4, line 35 and column 6, lines 1-24);

a overlay menu that is displayed during the program (displayed list of choices; column 6, lines 51-56), the overlay menu including the interactive features (column 6, lines 53-62),

wherein the logo indicates to a user that the interactive features are available for the program (column 4, lines 7-35 and column 6, lines 1-24), and wherein the overlay menu is displayed in response to a signal received from a user input (column 6, line 38-56) for the typical benefit of allowing a user to elect to access additional information associated with a multimedia presentation (column 1, lines 39-63).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker's system to include a means to receive an audio upgrade module, as taught by Graczyk, for the typical benefit of providing a user friendly means to combine multiple media abilities into a single standardized system.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker and Graczyk's system to include means to separately access the audio while a program extracted from the television signal is being displayed, wherein the audio is independent from the television signal, the audio is accessed simultaneously while the television signal is being displayed and wherein at least one of the menus comprises displaying a plurality of audio choices for accessing the audio, as taught by Seth-Smith, for the typical benefit of allowing the viewer to select and listen to program audio in the language/dialect they prefer.

Finally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Graczyk and Seth-Smith's system to include a logo that is displayed on the television screen during one of the programs, which program has one or more interactive features, wherein the logo indicates to a user that the interactive features are available for the program, as taught by Gibson, for the typical benefit of providing a user with a means to easily identify and access additional information related to a displayed video presentation.

As to claim 9, Banker, Graczyk, Seth-Smith and Gibson disclose wherein the overlay menu includes menu options for a plurality of interactive features (see Banker at Figs. 7 and 7A and Gibson at column 5, lines 38-54 and column 6, lines 52-56).

As to claim 10, Banker, Graczyk, Seth-Smith and Gibson disclose wherein the overlay menu further includes a menu option to return to the program without the

interactive features (see Banker at Fig. 7A and Gibson at column 6, lines 57-60 and Fig. 6, steps 610, 612 and 616).

As to claim 11, Banker, Graczyk, Seth-Smith and Gibson disclose a cursor that indicates one of the menu options (see Banker at column 21, lines 34-43 and Gibson at column 6, lines 51-56, column 4, lines 27-35 and column 3, lines 36-39), wherein the cursor is controlled by the user input (see Banker at column 21, lines 34-43 and Gibson at column 4, lines 27-35 and column 3, lines 36-39).

As to claim 12, Banker, Graczyk, Seth-Smith and Gibson disclose wherein the interactive features include facts related to the program (see Gibson at column 4, line 65-column 5, line 5).

As to claim 13, Banker, Graczyk, Seth-Smith and Gibson disclose wherein the guide further comprises a plurality of interactive submenus for use with the interactive features (see Banker at Figs. 7 and 7A and column 21, lines 34-43), which submenus are displayed in response to a selection of the menu items (see Banker at column 21, lines 34-43), the selection being received as at least one of the selection signals from the user input (see Banker at column 21, lines 34-43).

As to claim 14, while Banker, Graczyk, Seth-Smith and Gibson discloses displaying a plurality of submenus (see Banker at Fig. 7A), they fail to specifically

disclose wherein the submenus are displayed in a video window in a scaled down program video format.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to simultaneously display a reduced version of a menu with a plurality of selections on the same display as video programming, wherein the menu and video programming are each scaled to cover a smaller portion of the overall display to allow both to be fully displayed to the user at the same time, for the typical benefit of allowing a viewer to continue fully viewing a television program while navigating a menu and not miss any of the displayed video program.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Graczyk, Seth-Smith and Gibson's system to include wherein the submenus are displayed in a video window in a scaled down program video format for the typical benefit of allowing a viewer to continue viewing a television program while navigating a menu and not miss any of the displayed video program.

As to claim 15, Banker, Graczyk, Seth-Smith and Gibson wherein the program and one or more of the submenus are displayed on the television at the same time (see Banker at column 12, line 63-column 13, line 13).

As to claim 16, Banker, Graczyk, Seth-Smith and Gibson wherein the logo is displayed as an overlay menu (overlayed button to select; see Gibson at column 4, lines 7-36).

As to claim 17, Banker, Graczyk, Seth-Smith and Gibson wherein the logo is displayed by the set top terminal (see Banker at Fig. 3; column 12, lines 42-61), and wherein the set top terminal determines whether there is data or information about the program to be displayed as the one or more interactive features (see Gibson at column 5, lines 38-54) and displays the logo if there is data or information (see Gibson at column 6, lines 1-10).

As to claim 18, Banker, Graczyk, Seth-Smith and Gibson disclose wherein the set top terminal (see claim 17) generates an overlay menu including the logo (see Gibson at column 3, line 65-column 4, line 35 and column 6, lines 1-24).

As to claim 19, while Banker, Graczyk, Seth-Smith and Gibson disclose generating the overlay menu utilizing a set top converter (see Banker at column 12, lines 42-61), they fail to specifically disclose using data received during a vertical blanking interval.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize data from a vertical blanking interval, as receiving data during a vertical blanking interval at a set top terminal allows a cable

headend or other programming provider to download additional data and information to a user's system, such as interactive information or data updates, for the typical benefit allowing additional and updated information to be received at a user's terminal from a broadcast provider utilizing a television signal.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Graczyk, Seth-Smith and Gibson's system to include using data received during a vertical blanking interval for the typical benefit allowing additional and updated information to be received at a user's terminal from a broadcast provider utilizing a television signal.

As to claim 20, Banker, Graczyk, Seth-Smith and Gibson disclose wherein the logo is displayed in a corner of the screen of the television periodically for a specified duration (see Gibson at Fig. 3B, Fig. 4, step 408; column 5, lines 6-20).

As to claim 21, while Banker, Graczyk, Seth-Smith and Gibson disclose wherein the logo is displayed for a particular period of time (pertaining to periods of time an object is on the display; see Gibson at column 6, lines 10-18 and column 4, lines 7-26 and lines 45-54), they fail to specifically disclose displaying the logo for 15 seconds during a plurality of ten-minute segments of the program.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to display specific objects in a media presentation for at least 15 seconds during a plurality of ten-minutes segments of the program, such as

the main character or object in a television program or movie, for the typical benefit of displaying important information to viewer's during extended periods of time during a program.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Graczyk, Seth-Smith and Gibson's system to include displaying the logo for 15 seconds during a plurality of ten-minute segments of the program for the typical benefit of displaying important information to viewer's during extended periods of time during a program.

6. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banker and Seth-Smith, as applied to claim 23 above, and further in view of Gibson.

As to claim 24, while Banker, Graczyk and Seth-Smith disclose displaying one of the programs on the screen, they fail to specifically disclose displaying during the program a logo indicating that interactive features are associated with the program.

In an analogous art, Gibson discloses a system wherein an interactive menu system for display on a television in conjunction with television programming (column 2, lines 10-27), wherein

a logo that is displayed on a display during a program having one or more interactive features (column 3, line 65-column 4, line 35 and column 6, lines 1-24);

a overlay menu that is displayed during the program (displayed list of choices; column 6, lines 51-56), the overlay menu including the interactive features (column 6, lines 53-62),

wherein the logo indicates to a user that the interactive features are available for the program (column 4, lines 7-35 and column 6, lines 1-24), and wherein the overlay menu is displayed in response to a signal received from a user input (column 6, line 38-56) for the typical benefit of allowing a user to elect to access additional information associated with a multimedia presentation (column 1, lines 39-63).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Banker, Graczyk and Seth-Smith's system to include displaying during the program a logo indicating that interactive features are associated with the program, as taught by Gibson, for the typical benefit of providing a user with a means to easily identify and access additional information related to a displayed video presentation.

As to claim 25, Banker, Graczyk, Seth-Smith and Gibson disclose receiving from the user input device a signal associated with the logo (see Gibson at column 4, lines 7-36 and column 6, lines 5-10); and

displaying, in response to the signal, an overlay menu of the interactive features (see Gibson at column 6, lines 51-57).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is (571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Sheleheda
Examiner, Art Unit 2623

JS

/Chris Kelley/
Supervisory Patent Examiner, Art Unit 2623